

Message Text

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ORIGIN EB-08

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TO AMEMBASSY LONDON PRIORITY

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E.O. 11652: N/A

TAGS: EAIR, US, UK

SUBJECT: CIVAIR - ENFORCEMENT ACTION REGARDING BRITISH
AIRWAYS' FREIGHT RATES

1. DEPARTMENT OF JUSTICE HAS BROUGHT SUIT ON BEHALF
CIVIL AERONAUTICS BOARD (CAB) TO PREVENT BRITISH AIRWAYS
(BA) FROM UTILIZING CONTRACT AND SPECIFIC COMMODITY RATES
ORDERED BY THE BRITISH GOVERNMENT BUT NOT APPROVED BY
BOARD.

2. AT APRIL 1 HEARING BEFORE THE FEDERAL DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK FOR PRELIMINARY
INJUNCTION, JUDGE DENIED U.S. ATTORNEY'S APPLICATION. WE
UNDERSTAND THAT HIS PRINCIPAL REASON WAS CONCERN THAT AN
INJUNCTION MIGHT BE AN UNACCEPTABLE ATTEMPT TO EXERCISE
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JURISDICTION EXTRA-TERRITORIALY. IN ADDITION, COUNSEL FOR
BRITISH AIRWAYS HAD HANDED JUDGE COPY OF NOTE PRESENTED TO
DEPARTMENT ON MARCH 30 WITH REQUEST THAT IT BE TRANSMITTED
TO THE COURT, AND JUDGE, WE ARE TOLD, WANTS DEPARTMENT'S
REACTION BEFORE MAKING DECISION. (BRITISH NOTE
ESSENTIALLY ARGUES THAT BRITISH HAVE REFRAINED FROM
EXERCISING THEIR AUTHORITY IN COMMISSION RATE AND MIAMI-

LONDON FARE CASES, AND THAT USG SHOULD DO SAME IN PRESENT

CASE, WHERE, ACCORDING TO THE NOTE, NO SIGNIFICANT US
INTEREST IS AT STAKE.)

3. JUDGE EXPECTS TO DECIDE ON REQUEST FOR PERMANENT
INJUNCTION ON BASIS OF MATERIALS SUBMITTED BY APRIL 15.
DEPARTMENT IS CONSIDERING WHAT IT SHOULD DO BY THAT DATE,
IF ANYTHING;IN LIGHT OF THE BRITISH NOTE AND COURT'S
RULING.

4. PARALLEL SUIT HAS BEEN BROUGHT AGAINST SEABOARD IN
CONNECTION WITH SPECIFIC COMMODITY RATES INSTITUTED TO
MATCH BA. (JUSTICE HAS NO EVIDENCE SEABOARD HAS TRIED
TO MATCH BA'S CONTRACT RATES.) SEABOARD HAS AGREED TO
SUSPEND UTILIZATION OF THOSE RATES TEMPORARILY.
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Message Attributes

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Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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